

OWEN T. ROONEY, ESQ. (Bar No. 127830)
EDRINGTON, SCHIRMER & MURPHY
The Terraces
2300 Contra Costa Blvd., Suite 450
Pleasant Hill, CA 94523
Telephone: (925) 827-3300

Attorney for Defendants,
BAY AREA RAPID TRANSIT DISTRICT
And NOLAN PIANTA

John Houston Scott (SBN 72578)
Lizabeth N. de Vries (SBN 227215)
SCOTT LAW FIRM
1388 Sutter Street, Suite 715
San Francisco, CA 94109
Tel: (415) 561-9601
Fax: (415) 561-9609
john@scottlawfirm.net
liza@scottlawfirm.net

Attorneys for Plaintiff,
MEGAN SHEEHAN

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO BRANCH

MEGAN SHEEHAN,

Case No. C14-03156 LB

Plaintiff,

**UPDATED JOINT CASE MANAGEMENT
CONFERENCE STATEMENT AND
[PROPOSED] ORDER**

v.

BAY AREA RAPID TRANSIT, NOLAN
PIANTA, CITY OF OAKLAND, MICHAEL
STOLZMAN, and DOES 1-20, inclusive.

Date: May 28, 2015

Time: 11: 00 a.m.

Dept: 15th Fl. Crtrm. C

Defendants.

_____/

Plaintiff Megan Sheehan, and defendants BART and Nolan Pianta, through counsel, jointly submit this updated Case Management Conference Statement only providing updates and not repeating what has already been submitted. Other than the topics listed herein, plaintiff is not aware of any changes to the previous CMC statement filings. The parties propose that the Court set a case-management conference after the new parties (City of Oakland and Michael Stolzman)

appear to finalize the litigation schedule. However, to comply with the Court's order, the parties provide a proposed schedule as well as updates as requested herein.

1. PROPOSED SCHEDULING

Case Event	Filing Date/Disclosure Deadline/Hearing Date
Further Case Management Conference	Late June 2015
ADR completion date	TBD
Non-expert discovery completion date	9/7/15
Expert disclosures required by Federal Rules of Civil Procedure	10/7/15
Rebuttal expert disclosures	10/21/15
Expert discovery completion date	11/21/15
Last hearing date for dispositive motions and/or further case management conference	Mid-January 2016
Meet and confer re pretrial filings	Mid-February 2016
Pretrial filings due	Early March 2016
Oppositions, Objections, Exhibits, and Depo Designations due	Mid-March
Final Pretrial Conference	Early April 2016
Trial	Mid-April 2016
Length of Trial	5 days

II. FACTS

Updates to Plaintiff's Contentions:

Plaintiff's understanding of the facts was recently enhanced by the defendant's disclosure of a body-camera video by Oakland Police Department Officer Joel Hight.

Hight's video depicted the take down which caused Megan Sheehan's injuries. It shows that Nolan Pianta was not the only officer who participated in this use of force. Instead, when Pianta threw Sheehan to the ground holding one of her hands behind her back, an Oakland Police Officer also held her other hand behind her back as she was "guided" to the floor, face first.

1 Plaintiff sought and obtained permission to file a Third Amended Complaint which has
2 been filed. The pleading named two new defendants, the City of Oakland and Michael Stolzman.
3 The amended pleading was served on Monday May 18, 2015.

4 **Updates Defendant's Contentions:**

5 **The principal factual issues in dispute according to the Defendant are:**

- 6 1. Whether plaintiff was publicly intoxicated;
- 7 2. Whether plaintiff acted confrontationally towards and resisted Officers
8 Tarabanino, Carrasco and Pianta;
- 9 3. Whether Officer Pianta was justified in using force to defend himself against
10 plaintiff's aggressive, belligerent and hostile conduct;
- 11 4. Whether the BART Police Dept. has adequate training and a pattern and policy of
12 unconstitutional conduct;
- 13 5. Whether plaintiff was lawfully arrested;
- 14 6. Whether there was excessive force or is defendant entitled to qualified immunity;
- 15 7. The nature and extent of plaintiff's damages.

16 **III. MOTIONS**

17 Plaintiff may have to file a motion relating to BART's improper designation that all video
18 recordings in this case, the lion's share of which were disclosed pursuant to FRCP 26 and
19 identified as non-privileged, are subject to the Protective Order. Plaintiff may also have to bring a
20 motion to permit her re-examination of Nolan Pianta in deposition relating to the evidence in the
21 Hight video, if defendant refuses to permit this deposition be reconvened after the new parties
22 have appeared in the case.

23 Defendant may file a Motion for Summary Judgment in this matter.

24 **IV. AMENDMENT OF PLEADINGS**

25 Plaintiff does not anticipate needing any additional amendments.

26 **V. SETTLEMENT AND ADR**

27 The parties participated in an ENE conference on April 21, 2015 which did not resolve
28 the case.

1 Dated: May 21, 2015

Respectfully submitted,

2 SCOTT LAW FIRM

3 By: /s/Lizabeth N. de Vries
Lizabeth N. de Vries, Esq.
4 Attorney for Plaintiff

5 Dated: May 21, 2015

EDRINGTON, SCHIRMER & MURPHY LLP

6 By: /s/Owen T. Rooney
7 Owen T. Rooney
8 Attorney for BART

9
10 **CASE MANAGEMENT ORDER**

11 The above JOINT CASE MANAGEMENT STATEMENT & PROPOSED ORDER is
12 approved as the Case Management Order for this case and all parties shall comply with its
13 provisions.

14
15 IT IS SO ORDERED.
16

17
18 Dated:

19 _____
20 THE HONORABLE LAUREL BEELER
21 UNITED STATES DISTRICT COURT
22 MAGISTRATE JUDGE
23
24
25
26
27
28